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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/554,400	10/24/2005	Yuki Yokoyama	050417	4602
23850	7590	12/16/2008	EXAMINER	
KRATZ, QUINTOS & HANSON, LLP 1420 K Street, N.W. Suite 400 WASHINGTON, DC 20005				MUSTAFA, IMRAN K
3663		ART UNIT		PAPER NUMBER
12/16/2008		MAIL DATE		DELIVERY MODE
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/554,400	YOKOYAMA ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	IMRAN MUSTAFA	3663	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 08 September 2008.

2a) This action is **FINAL**.                            2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 and 14-19 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-12, 14-19 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)

2) Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 14-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Gudat (US 2004/0210370).

As to claim 1 Gudat discloses a device for giving indications to the operator of a work machine which works on a construction surface of a current work object, monitoring at least one reference marker located in the vicinity of the construction surface(Paragraph 40), characterized in comprising:

an acting component of the work machine that acts directly on the construction surface of the current work object (Paragraph 29);

a measurement device to measure the position of the construction surface, of the current work object(Paragraph 8), the position of the reference marker(Paragraph 8,29), and the position of acting component(Paragraph 29), while said work machine is performing work(Paragraph 29)

a reference point detection unit to detect the reference point corresponding to reference marker disposed in the vicinity of said construction surface (Paragraph 29)

a virtual line calculation unit to calculate from the reference point a virtual line passing through the reference point and corresponding to a construction surface target line that is to be formed by the acting component(Paragraph 29 Figure 3);

a display data creation unit to create display data to display images indicating the positions of at least said construction surface and said virtual line, on the basis of said positions measured by said measurement device and said virtual line calculated by said virtual line calculation unit(Paragraph 29); and

a display device to receive said display data from said display data creation unit and displaying said images to the operator on a display screen (Paragraph 29, Paragraph 40).

As to claim 2 Gudat discloses a device that characterized in that said display creation unit creates said display data in such a manner that an image is displayed which also depicts the position of said other reference markers in addition to the positions of said construction surface and said virtual line(Paragraph 29 Figure 3)

As to claim 3 Gudat discloses a device characterized in that said measurement device is disposed in such a manner to move or turn direction in unison with said work machine, when said work machine moves or turns direction, whereby, even if said construction surface moves due to said work machine moving or turning direction, the positions of said construction surface and the other reference markers located in the vicinity of said construction surface are measured(Paragraph 26) and an image

indicating the positions of said construction surface and said virtual line is displayed (Paragraph 29).

As to claim 4 Gudat discloses a device that said measurement device determines the positions of said construction surface and other reference markers on a continuous basis (Paragraph 26), whereby the images indicating the positions of said construction surface and said virtual line are displayed on the screen substantially in real-time (Paragraph 29)..

As to claim 5 Gudat discloses a device characterized in that said reference point detection unit detects a position satisfying prescribed geometrical conditions, from the positions of said construction surface and other reference markers measured by said measurement device, as said reference point(Paragraph 26).

As to claim 6 Gudat discloses a device that said reference point detection unit detects a position specified by said operator, from the positions of said construction surface and other reference markers measured by the said measurement device, as said reference point(Paragraph 26,34,35).

As to claim 7 Gudat discloses a device according to claim 1, that said reference point detection unit detects a plurality of reference points reference points including other reference markers measured by said measurement device;(Paragraph 24,26); and

    said virtual line calculation device calculates said virtual line in such a manner that said virtual line passes through said plurality of reference points thus detected.  
(Paragraph 29, Figure 3)

As to claim 8 Gudat discloses a device characterized in further comprising: an acting component detection unit for detecting the position of the acting component which acts on said construction surface (Paragraph 20);

wherein said display creation unit creates said display data creation unit creates said display data in such a manner that said images depict the position of said acting component in addition to the positions of said construction surface and said virtual line, on the basis of the position of said acting component detected by said acting component detection unit (Paragraph 29).

As to claim 9 Gudat discloses a construction target indicator device in that said acting component detection unit detects the position of said acting component from the positions of said construction surface and said other reference markers measured by said measurement device(Paragraph 26);.

As to claim 10 Gudat discloses a device characterized in further comprising an acting component position correction unit for correcting the position of said acting component detected by said acting component detection unit, by means of a prescribed offset amount(Paragraph 20);

Wherein said display data creation unit creates said display data in such a manner that an image is displayed which depicts the corrected position of said acting component in addition to the positions of said construction surface and said virtual line (Paragraph 29), on the basis of the position of said acting component corrected by said acting component position correction unit (Paragraph 29).

As to claim 11 Gudat discloses a device characterized in that displacement sensors for measuring the displacement of a plurality of components of said work machine are provided in said work machine (Paragraph 20); and

    said acting component detection unit detects the position of said acting component on the basis of the displacement of said plurality of components measured by said displacement sensors (Paragraph 20);

As to claim 14 Gudat discloses a method for giving indications to the operator of a work machine, characterized in comprising the steps of:

    Measuring the position of a construction surface, which is a current work object, and the position of reference markers located in the vicinity of said construction surface while said work machine is performing work (Paragraph 26).

    Detecting reference points corresponding respectively to the reference markers disposed in the vicinity of said construction surface, from the measured positions of the construction surface and the reference markers (Paragraph 26).

    Calculating a virtual line corresponding to a target surface that is to be formed, on the basis of said detected reference points (Paragraph 26, 29); and

    Creating an image indicating the positions of at least said construction surface and said virtual line, on the basis of said measured position and said calculated virtual line (Paragraph 29)

    providing a display screen (Paragraph 29), and

    displaying said image on the display screen (Paragraph 29);

As to claim 15 Gudat discloses a device comprising a laser distance measurement device that irradiates a laser beam and continuously changes the angle of elevation of the a laser beam at a prescribed cycle to scan the laser beam through a scanning region(Paragraph 24-26).

As to claim 16 the claim is interpreted and rejected as in claim 15.

As to claim 17 Gudat discloses a device wherein the work machine is an earth working machine and the work object is earth (Paragraph 40).

As to claim 18 the claim is interpreted and rejected as in claim 17.

As to claim 19 Gudat discloses a device comprising an input device whereby the operator enters a designated reference point corresponding to a reference marker (Paragraph 34-35).

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gudat (US 6,736,216) in view of Yokota (US 2002/0183924).

As to claim 12 Gudat discloses a device characterized in that said display data creation unit creates display data for displaying an image which shows a view of the positional error between said construction surface and said virtual line(Paragraph 29),

Said display device displays said image by receiving said display data from said display data creation unit (Paragraph 29).

Gudat does not disclose of displaying an emphasized image on the display. Yokota, however, displays an emphasized image of the display data (Paragraph 40) in response to a request from the operator. It would have been obvious to one skilled in the art to have the ability to have an enlarged display with the motivation of allowing the user to see the data more easily.

### ***Response to Arguments***

3. Applicant's arguments with respect to claims 1-12, 14-19 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hassel Savard (US 6,736,216).

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IMRAN MUSTAFA whose telephone number is (571)270-1471. The examiner can normally be reached on Mon-Fri 7:30AM-5:00PM, Alt Fri, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Keith can be reached on 571-272-6878. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

12/11/08

/I. M./  
Examiner, Art Unit 3663

Imran Mustafa

/Jack W. Keith/  
Supervisory Patent Examiner, Art Unit 3663